



**MASHPEE ZONING BOARD OF APPEALS  
MEETING MINUTES  
JUNE 8, 2016**

The Mashpee Zoning Board of Appeals held Public Hearings on Wednesday, June 8, 2016, at 6:00 p.m. in the Waquoit Room at the Mashpee Town Hall, 16 Great Neck Road North. Board Members Jonathan D. Furbush, William A. Blaisdell, Ronald Bonvie, Dom DeBarros, Scott Goldstein, and Associate Members, Brad Pittsley and Norman J. Gould were present. Building Commissioner, Michael Mendoza was also present.

**PLEGE OF ALLEGIANCE**

**CONTINUED HEARINGS**

**43 Waterline Drive South:** Steven and Susan Bozkurtian request a Written Finding under §174-17 of the Zoning Bylaws to raze and replace a single-family dwelling on property located in an R-3 Zoning District (Map 120 Parcel 148), Mashpee, MA. Owner of record: 43 Waterline LLC. (*Continued from May 25, 2016 hearings at the request of the attorney*).

Attorney Kevin Kirrane requested to continue this hearing further until the July 13, 2016 meeting because the applicant will be submitting revised plans with the required filing of an Amended Order of Conditions by the Conservation Commission. The Conservation meeting is scheduled for June 23, 2016. Attorney Kirrane submitted a formal letter that is filed with the Clerk's office.

Mr. Bonvie made a motion to accept the continuance until July 13, 2016. Mr. Blaisdell, seconded. All were in favor for the continued hearing.

**664 Great Neck Road South:** Town of Mashpee requests a Special Permit under §174-25 I (9) of the Zoning Bylaws to replace the dock, pier, ramp and float at Ockway Bay Boat Ramp located in an R3 Zoning District, (Map 104 Parcel 79), Mashpee, MA.

Catherine Laurent, Director, of the Department of Public Works, represented the Town of Mashpee for the dock and float project. She submitted a plot plan depicting the new dock and float system that will be replaced. The proposed system will not be extending out any further than what currently exists, but will be built more landward. People who currently use this launch have to wade through the water to access the dock, so the improvements to the dock system will make it safer and environmentally friendly. Catherine supplied letters of support from the Water Ways Commission, the Shellfish Constable, and the Acting Harbormaster.

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Mr. Furbush read the letter from Ken Bates, Chairman of the Waterways Commission into the record, and the Inspection Department comments into the record.

Mr. Gould read a memo from Rick Santangelo, Acting Harbormaster into the record. He also read the memo from Richard York, Shellfish Constable into the record.

Mr. Blaisdell read comments from the Board of Health into the record, and the Conservation Commission comments into the record.

Mr. Bonvie made a motion to approve the special permit dock project. He referenced a plot plan: Proposed Pier Modification Plan, 664 Great Neck Road South, in Mashpee, MA. Owner of Record: Town of Mashpee, 16 Great Neck Road North, Mashpee, MA. Sheet 1 of 1, Date: 4/15/16, DWG File: GreatNeckSouth\_664, Scale: As Noted, Approved by: MC, Check by: MC, Drawn by: MC, Prepared by: Cape & Islands Engineering, Summerfield Park, 800 Falmouth Road, Suite 301C, Mashpee, MA 02649. Drawing Title: Proposed Pier Modification Plan. Assessors Information: 104-79-0. The Board has determined that the applicant meets all the conditions of a Special Permit under Mass General Law 40A Section 9.

Mr. Blaisdell seconded. All were in favor of the dock and float project.

**21 Wilsons Grove:** Owner, Cynthia T. D'Alessandro requests a Written Finding under Article V §174-17 of the Zoning Bylaws to construct a 5.4' x 8.25' addition on rear deck structure on property located in an R-3 Zoning District and within the Popponesset Overlay District, (Map 118 Parcel 95), Mashpee, MA.

Mr. David D'Alessandro represented his wife for the deck addition project. He provided a site plan, a narrative, and photos of the project. The addition is approximately 40 square feet on the back deck. Currently, there's a small enclosed shed where he keeps the washer and dryer, and he would like to expand the deck 5' x 8' feet, and enclose a portion of the deck for better access to his shower, and washer and dryer from inside the house. He is staying within the current foot print, and will not be encroaching on the neighbor's property.

Mr. Furbush asked if the deck will be enclosed with a door. Mr. D'Alessandro said yes, that the deck area will become a smaller sitting area.

Mr. Mendoza said that the Inspection Department does not have any issues with this project.

Mr. Furbush read the Board of Health comments into the record dated June 7, 2016.

Mr. Bonvie read the Conservation Comments into the record.

Mr. Goldstein read the Inspection Department comments into the record.

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The Board had a conversation regarding a recent applicant that received variance approval from the ZBA for a deck project issued prior to receiving Conservation approval, but later violated his permit with Conservation. The ZBA held a special meeting voting not to write the approved decision based on the comments submitted to the Zoning Board by Conservation.

Mr. David D'Alessandro said he briefly spoke with Drew in Conservation but did not have the paperwork to review the project with him.

Mr. D'Alessandro said that the existing deck is sitting on a cinder block foundation, but he would be putting in sono tubes for the new deck. He did mention to Drew that he would be putting in sono tubes, and Drew did not seem to have an issue with that.

Mr. Mendoza said if the Board elects to accept this application, the Inspections Department would take responsibility to make sure Mr. D'Alessandro speaks with Conservation to go through the process if necessary.

Mr. Goldstein stated that Mr. D'Alessandro might require an RDA with Conservation which is a simple process and might require legal notification.

Mr. Bonvie stated that he would prefer that all future applicants apply with Conservation, if required, prior to meeting with the ZBA, as well as all other departments.

The Board had a discussion and has no issues with the project, however, they would prefer to continue the project until July 13, 2016 because it is within wetlands jurisdiction and since the project requires installing sono tubes, they want to make sure that it has Conservation's approval first. The Board told the applicant that he needs to meet with Drew in Conservation as soon as possible.

Mr. D'Alessandro had revised the plan depicting the dimensional requirements for the Popponesset Overlay District.

Mr. Bonvie made a motion to continue the application until Wednesday, July 13, 2016. Mr. Blaisdell seconded. All were in favor to accept the continuance.

**14 Aries Lane:** Owners, Thomas G. Badway and Leslie M. Aversa request a Special Permit under §174-45.4 of the Zoning By-laws to allow for construction of a 1,478 sq. ft. accessory apartment in the basement on property located in an R-3 Zoning District, (Map 93 Parcel 29), Mashpee, MA.

Mr. Bonvie recused himself of this hearing. Mr. Gould will be sitting in on this hearing.

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Mr. Steve Cook, Cotuit Bay Design represented the homeowners who were also present at the meeting. Mr. Cook provided a floor plan of the proposed accessory apartment. He said a chair lift will be installed going up to the hallway adjacent to the garage on the first floor and he will install a door where there is currently a window, as well as three egress window wells. The height in the basement is 8 feet, and will meet all the dimensions and requirements of the bylaws. The existing house area is 4,484 sq. ft., the maximum size of the apartment will be 1,478 sq. ft. The house currently has four bedrooms, but will be removing a bedroom from the second floor to add the bedroom in the basement. This project cannot be seen from any public way or abutters, and the property is very private with an existing fence, pool, trees and shrubbery. There is plenty of parking but there will be no additional vehicles at this home.

Mr. Blaisdell quoted the bylaw requirements that must be met. The homeowners must provide a yearly letter of proof to the Building Department that they are still the owners of the property. If the homeowner decide to sell the property, the special permit is void and the new homeowners will have to reapply with the Zoning Board of Appeals.

Mr. Tom Badway, 14 Aries Lane, homeowner asked the Board if he decides to sell his home, and removes the stove from the accessory apartment, would this still be considered an accessory apartment.

Mr. Mendoza stated there is nothing in the current bylaws stating what no longer makes it an accessory apartment, so it might be the whole kitchen that needs to be removed. The bylaws are updated yearly, so it is hard to predict what might be required now and what could be required in the future. The best way to handle this situation is to visit the Building Department.

Leslie Avera, 14 Aries Lane, homeowner, asked the Board if she is allowed to remove the accessory apartment and convert it back into a craft or family room.

Mr. Mendoza said; "yes, as long as you come to the Building Department first.

Mr. Goldstein made a motion to approve the special permit. The Board has determined that the applicant meets all the conditions of a Special Permit under Mass General Law 40A Section 9. A Basement Floor Plan by Cotuit Bay Design, LLC, 43 Brewster Road, Mashpee, MA 20649, Titled: In-Law Apartment for Badway Residence, 14 Aries Lane, Mashpee, MA. Scale: 1/4" = 1'.0", Date: 05/12/2016. Drawing No.: A1 Existing House Area: 4,484 SF Gross, (3510 SF 1<sup>st</sup> & 2<sup>nd</sup> + 974 SF existing finished basement), Max size of Accessory Apartment = 40% of gross, 448 SF x 40% = 1,794 SF Max area of apartment. This is conditioned that the accessory apartment will not exceed 1,478 SF Gross. If the plan changes, then a new filing will be required to the ZBA. Mr. Gould seconded. All were in favor of the accessory apartment.

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**29 & 33 Trinity Place:** Owner, Cotuit Solar, LLC requests to construct a warehouse and renovate an existing building for a solar energy business and obtain relief from paving requirements under §174-31 and §174-41 of the Zoning By-laws on property located in a C-2 Zoning District, (formerly 36 Savannas Path), (Map 62 Parcel 68B), Mashpee, MA. To re-establish the previously granted Variance (V-2014-35) that was granted on December 14, 2014 that expired.

Attorney Kevin Kirrane represented the applicant, Mr. Geyser of Cotuit Solar, who needs to re-establish his variance request that expired. Mr. Kirrane said that the road has been constructed and paved which was required by the Planning Board, and is also required to apply for a building permit. The plan depicts an existing 2-story building on the lot that will be utilized as office space, and a proposed 40' x 105' warehouse to be used as storage for the solar business equipment. The project also includes to supply twelve (12) parking spaces, with a gravel surface.

The proposed warehouse will be setback 75 feet from the front yard setback, 50 feet from the rear yard setback, 24 feet from Savannas Path, and 38 feet from the residential R-5 zone toward the back.

Mr. Bonvie read comments into the record submitted by Charlie Rowley, Engineer representing the Town regarding his inspections of the site, drainage, and road construction.

Mr. Goldstein read comments into the record from the Board of Health. "No comments necessary".

Mr. Blaisdell read comments into the record from the Town Planner regarding the time limit for the road construction.

Mr. Furbush read comments from the Inspection Department into the record.

The Board questioned Mr. Geyser who supplied a revised drawing of the proposed warehouse that depicted a much larger sized building than what was approved back in 2014.

Mr. Geyser told the Board that the initial drawings that were submitted were for the building size that was subsequently modified requested by the Planning Board. He said the Board does not have a set of engineered drawings for the size building that exists on the approved plan.

Mr. Furbush said that the Board approved the height of the building at 18' 3", not a 30 foot building.

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Mr. Geyser said the building height increased as requested by the Planning Board in terms of the footprint. He said that the height of the building was not addressed at the ZBA meeting.

Attorney Kirrane said that Mr. Geyser is only seeking what was previously approved, and that drawing only shows what the building will look like.

The Board reviewed the submitted plan and wanted to confirm that the height of the building was the same as what was previously approved.

The Board had a discussion regarding the 60-day condition to apply for the building permits that were listed in the Special Permit issued back in 2014 that is still valid to this date. However, an application might be required for the Special Permit due to this condition unless the Planning Board agrees to approve the Building Department to move forward.

Mr. Furbush read the comments submitted by the Fire Department into the record.

Attorney Kirrane made a recommendation that when issuing the decision, to incorporate the language in the previous decision. If anyone chose to pave those parking spaces that an additional catch basin be installed.

Mr. Bonvie made a motion to issue the following variances to Cotuit Solar LLC at 29 & 33 Trinity Place as follows:

-Warehouse Building: There is required front yard setback of 75 feet, the applicant is supplying 24 feet, therefore requesting a variance of 51 feet. On the rear or the westerly side of the building, there is a requirement of 50 feet, the applicant is supplying 38 feet, therefore requesting a variance of 12 feet.

-Office Building: The front yard setback is 75 feet, the plan depicts 55 feet, and relief requested is in the amount of 20 feet. The westerly or rear yard setback is required to be 50 feet, the plan depicts 24.5 feet, and relief requested is 25.5 feet.

Also the applicant is requesting eight (8) parking spaces to be constructed out of gravel and not bituminous concrete.

The application request is to construct a warehouse and renovate an existing building for a solar energy business and obtain relief from paving requirements under §174-31 and §174-41 of the Zoning By-laws on property located in a C-2 Zoning District, (formerly 36 Savannas Path), (Map 62 Parcel 68B), Mashpee, MA. To re-establish the previously granted Variance (V-2014-35) that was granted on December 14, 2014 that expired.

As part of the conditions; the Variance is issued based on the specific conditions listed that coincide with the Special Permit SP-2014-36. Incorporate all the other conditions included in the previously issued outlined and approved variance.

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Referencing a plan, that the building height shall be 19'.4 feet above the existing grade, the size of the building is 40' x 105' feet. Prepared by: CSN Engineering, PO Box 201, Brewster, MA 02631 Phone: (508) 896-1513, Fax: (508) 896-1783, Date: 03/10/14, Scale: As shown, Scale: 1" = 30', By: LJP, Check: MTA, Project No: CSN0205, Survey Work. The plan is captioned by Survey Work, A & M Land Services, 618 Route 28, Suite 3, West Yarmouth, MA 02673, Ph.: (508) 737-1777, Email: [anmland@comcast.net](mailto:anmland@comcast.net). REVISION 12/10/14: Revised Gravel Parking, Added Spot Grades and Catch Basins, Removed Air Intake Pipe, Revised Barn Elevation, Lighting Note. REVISION 10/21/14: Revised Grading And Gravel Parking Area, Revised Note Regrading Height, Added Construction Details, Revised Lighting And Legend. REVISION 10/10/14: Revised Building Location, Revised Note Regarding Height, Added Setback Variance Requests, Added Landscaping. Revision 10/7/14: Added Dimension from Barn to Wetland, Added Note Regarding Height. Revision 09/08/14: Relocated Gate, Revised Building and Parking Area, Removed Proposed Planting, Removed Riverfront Designations. REVISION 08/26/14: Added Lighting and Landscaping and Notes. REVISION 07/10/14: Added Gate, Variance Request for Gravel Parking, Septic Data. Also conditioned on the comments submitted and read into the record.

Mr. Blaisdell seconded. All were in favor of re-establishing the Variance for the proposal.

**OTHER BUSINESS**

**Approve May 25, 2016 Meeting Minutes**

Mr. Gould made a motion to accept the meeting minutes. Mr. Bonvie seconded. All were in favor to accept the meeting minutes.

Mr. DeBarros made a motion to adjourn. Mr. Furbush seconded. All were in favor and the meeting adjourned a 7:53 pm.

Respectfully submitted;

Mary Ann Romero  
Administrative Security  
Zoning Board of Appeals